SINGAPORE REPORTS

NG MOON LEONG v. SEEMA BALVANTRAI GODA

[C.A. (Wee Chong Jin C.J., Sinnathuray & Thean JJ.) April 1, 1986]

[Singapore – Civil Appeal No. 26 of 1984]

Damages – Eye – Loss of sight of right eye – 10 year old Indian girl – $50,000 awarded as general damages.

Damages – Award by trial judge – Dowry in the form of gift to bridegroom – Dowry illegal in India – Refusal of appellate Court to interfere with award unless error in principle.

The respondent Seema Balvantrai Goda is a young Indian girl who while on a visit to Singapore was injured by a taxi driven by the appellant. She was 10 years old at the time of the accident and her right eye was so severely injured that she has lost the sight of that eye. The learned trial Judge found the appellant solely to blame and awarded a global sum of $50,000 as general damages for the loss of sight of the right eye, pain and suffering and loss of her marriage prospects. On appeal,

Held, dismissing the appeal: (1) it is settled law that an appellate court should not interfere with an award of damages unless it is satisfied that the judge has acted on a wrong principle of law, or has misapprehended the facts, or has for these or other reasons made a wholly erroneous estimate of the damage suffered; or unless the amount is so grossly excessive or insufficient as to lead to the conclusion that some error in principle must have taken place;

(2) even on the assumption that the trial Judge erred in principle in any way or has acted on a wrong principle of law the amount of the global award was not grossly excessive or a wholly erroneous estimate of the damage suffered by the respondent.

[*Editorial Note*: In his Grounds of Decision the learned trial Judge accepted the evidence that although payment of dowry is illegal in India, dowry is still given but in the form of a gift to the bridegroom.]

Case referred to:

(1) *Pickett* v. *British Rail Engineering Ltd.* [1980] A.C. 136.

COURT OF APPEAL.

M. Karthigesu (K. Jayabalan with him) for the appellant.

R. Palakrishnan (*M.P. Kanisan* with him) for the respondent.

Cur. Adv. Vult.

Wee Chong Jin C.J. (delivering the Judgment of the Court): The respondent is a young Indian girl who, while on a visit to Singapore, was injured by a taxi driven by the appellant. She was 10 years old at the time of the accident and her right eye was so severely injured that she has lost the sight of that eye. The learned trial judge found the appellant solely to blame and awarded a global sum of $50,000/- as general damages for the loss of sight of the right eye, pain and suffering and loss of her marriage prospects.

The appellant now appeals against the award of $50,000/- general damages. It is settled law that an appellate court should not interfere with an award of damages unless it is satisfied that the judge has acted on a wrong principle of law, or has misapprehended the facts, or has for these or other reasons made a wholly erroneous estimate of the damage suffered; or unless the amount is so grossly excessive or insufficient as to lead to the conclusion that some error in principle must have taken place (see *Pickett* v. *British Rail Engineering Ltd.*[1]).

During the trial the respondent's counsel submitted that she should be awarded $35,000/- for the injury to the right eye, pain and suffering and loss of amenities and $15,000/- to $25,000/- for loss of marriage prospects. Counsel for the appellant submitted that the award for the eye injury, pain and suffering and loss of amenities should not exceed $30,000/- and $3,500/- for loss of marriage prospects.

In his Grounds of Decision the learned judge accepted the evidence that although payment of dowry is illegal in India, dowry is now given but in the form of a gift to the bridegroom and that the respondent on attaining marriageable age would find it difficult to get a husband unless her parents agree to make a substantial gift which her father "estimated would be 50% to 100% more than if she had not been blinded in one eye." In his Grounds of Decision the learned judge merely indicated that he took into consideration in awarding the global sum, a High Court award in Suit 3760 of 1979 of $28,000/- to a 51 year old taxi driver for loss of his right eye.

It is the contention of appellant that it must be inferred from his Grounds of Decision that the learned judge had in mind $28,000/- as the appropriate damages for the loss of the sight of the right eye and that therefore he assessed the respondent's loss of marriage prospects at $22,000/-. From that inference it is submitted that the learned judge erred in principle by approximating the loss of marriage prospects with the concept of the

payment of dowry or the making of a gift to the bridegroom by the bride's parents.

On the assumption that the trial judge erred in principle in any way or has acted on a wrong principle of law the question remains whether the appellant has satisfied this Court that the amount of the global award was grossly excessive or a wholly erroneous estimate of the damage suffered by the respondent. In our judgment he has failed to do so. It is to be observed that the unchallenged medical evidence was that she suffered severe injuries to her right eye which necessitated toilet and suture . The injuries were:-

"(1) Total hyphaema

(2) Scleral laceration extending from the limbus at 3 o'clock all the way back to the equator medially; another scleral laceration from 9 o'clock limbus extending for about 4 mm.

(3) The right upper eyelid was shredded with full thickness lacerations.

(4) The right lower lid had a laceration along the rim."

The medical evidence also was that the injured eye showed signs of shrinkage 3 months after the accident and that she may occasionally suffer severe pain in that eye.

At the trial the judge's attention was drawn to awards made in three cases for the loss of an eye. In Suit No. 3753 of 1975 the plaintiff, a 27 year old church verger and gardener was awarded $24,500 for the loss of the left eye. In Suit 2667 of 1976, a 21 year old painter was awarded, by agreement, $25,000/- for the loss of the right eye. In Suit 3760 of 1979, a 51 year old taxi driver was awarded $28,000/- for the loss of the right eye and this was the only award the trial judge referred to in his Grounds of Decision.

In our opinion, bearing in mind that the respondent was a 10 year old girl who had suffered severe eye injuries and the consequential loss of her right eye, the trial judge in arriving at the global sum of $50,000/-, in all probability had in mind a figure of not less than $40,000/- for the loss of the respondent's right eye, pain and suffering and loss of amenities. In any event, the award of $50,000/- was not, in our judgment, such a wholly erroneous estimate of the damage suffered by the respondent as a result of the appellant's negligence and the appeal must be dismissed with costs.

Appeal dismissed.

Solicitors: *Cooma Lau & Loh & M. Karthigesu; Selvadurai Pala Krishnan & Partners.*

THE "DONG MIN"
"DONG MIN", OWNERS OF CARGO v. "DONG MIN" OWNERS & ORS.

[O.C.J. (Abdul Wahab Ghows J.) July 4, 1985]

[Singapore – Admiralty in Rem No. 126 of 1984]

Shipping Law – Admiralty practice – Discovery and inspection of documents – Order of court – Non-compliance – Application for judgment – Stay of execution pending appeal.

Practice and Procedure – Discovery and inspection of documents – Order of court – Non-compliance – Application for judgment – Stay of execution pending appeal.

In this case concerning the discovery of documents in admiralty practice, the plaintiffs alleged that the defendants had failed in their obligation to make a full and frank disclosure of all the relevant documents in their possession, custody and power and had also failed to make available certain documents for the plaintiffs' inspection. The plaintiffs obtained a court order dated March 25, 1985, requiring the defendants to do certain things within 21 days therefrom, including the filing of an affidavit verifying the defendants' list of documents and stating their reasons for non-production. On May 10, 1985, the plaintiffs applied for judgment to be entered against the defendants for non-compliance of the order of March 25, 1985. The defendants said they were unable to file the supplementary list and affidavits because the documents were in Seoul.

Held: (1) the defendants had made no real efforts to comply with the order of court dated March 25, 1985. An order in terms of the plaintiffs' application was granted that judgment be given for the plaintiffs in the sum of $8,105.44 with interest and costs as the defence served herein has been deemed to have been struck out;

(2) stay of execution granted pending appeal.

[*Editorial Note:* Readers may refer to the decision of Sheen J. in *The World Protector* [1985] 1 Lloyd's Rep. 227.]

ADMIRALTY *IN REM.*

A.B. Reddy (*V.C.S. Vardan* with him) for the plaintiffs.

Gurbani Prem Kumar for the defendants.

Cur. Adv. Vult.

Abdul Wahab Ghows J: On May 10, 1985 I made an order in terms of the plaintiffs' application herein that judgment be given to them in the sum of $8,105.44 with interest and for their costs to be taxed as the defence served herein has been deemed to have been struck out for non-compliance with paragraphs 1, 2, 4 and 6 of the Order of Court dated March 25, 1985. This appeal by the defendants is against my order aforesaid.